



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF JUNE 16, 2003

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-83 Gates v. Discovery Communications, Inc., S115008. (D039399; 106 Cal.App.4th 677; San Diego County Superior Court; GIC769395.) Petition for review after the Court of Appeal reversed an order in a civil action. This case presents the following issue: Is this court's decision in Briscoe v. Reader's Digest Association, Inc. (1971) 4 Cal.3d 529, which concluded that a plaintiff could maintain a tort action for invasion of privacy under California law based upon a defendant's publication of a truthful story identifying the plaintiff, a rehabilitated and otherwise anonymous private individual, as having committed a crime many years in the past, no longer viable in light of more recent decisions of the United States Supreme Court analyzing the First Amendment protection afforded the truthful publication of facts in the public record?

#03-84 Kulshrestha v. First Union Commercial Corp., S115654. (C041513; Yolo County Superior Court; 107 Cal.App.4th 415; CIV001803.) Petition for review after the Court of Appeal affirmed the summary judgment in a civil action. This case presents the following issue: Must an out-of-state declaration that states that it is made under penalty of perjury also expressly state that it is "certified or declared under the laws of the State of California" in order to comply with Code of Civil Procedure section 2015.5?

#03-85 Maynard v. Brandon, S114829. (E031430; unpublished opinion; Riverside County Superior Court; RIC331910.) Petition for review after the Court of Appeal reversed a judgment confirming an arbitration award. This case presents the

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following issue: May a party who fails to file a timely request for trial de novo following arbitration of an attorney fee dispute (Bus. & Prof. Code, § 6204) obtain relief from default under Code of Civil Procedures section 473?

#03-86 O’Riordan v. Federal Kemper Life Assurance Co., S115495. (C037789; unpublished opinion; Sacramento County Superior Court; 99AS04726.) Petition for review after the Court of Appeal affirmed the summary judgment in a civil action. This case includes the following issue: When an insurance agent told an applicant for a life insurance policy that she could answer “no” to a question on the insurance application that asked whether the applicant had “smoked cigarettes in the past 36 months” even though the applicant informed the agent that she had smoked a couple of cigarettes in social settings during that period, could the insurance company, after the insured’s death, refuse to pay the death benefits under the policy on the ground that the insurance agent had neither actual nor ostensible authority to provide such advice to the applicant?

#03-87 People v. Hill, S115525. (A097724; unpublished opinion; Solano County Superior Court; FC191162.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in People v. Sanders, S094088 (#01-21), which includes the following issues: (1) Should this court reconsider the holding in In re Tyrell J. (1994) 8 Cal.4th 68, 74, that the otherwise illegal search of a minor who is subject to a probation search condition is “not unconstitutional despite the officer’s ignorance of the search condition”? (2) If the court’s holding in Tyrell J. remains viable, should that holding apply to adult parolees who are subject to search conditions?

#03-88 Swann v. DaimlerChrysler Motors Corp., S115864. (D038170; unpublished opinion; San Diego County Superior Court; GIC743976.) The court ordered briefing deferred pending decision in Gavaldon v. DaimlerChrysler Corp., S104777 (#02-84), which presents the following issue: Is a service contract, purchased to supplement the factory warranty accompanying the purchase of a new automobile, an express warranty within the meaning of the Song-Beverly Consumer Warranty Act (Civ. Code, § 1790 et seq.), entitling the purchaser to the replacement or restitution remedy of Civil Code section 1793.2(d), if satisfactory repairs cannot be made after a reasonable number of attempts?

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